

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2003-199-T - ORDER NO. 2003-592

OCTOBER 3, 2003

IN RE: Application of Kelly Moving, Inc., 280)	ORDER GRANTING
Branch Street, Campobello, SC 29322)	CLASS E CERTIFICATE
(District 4), for a Class E Certificate of Public)	
Convenience and Necessity.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Kelly Moving, Inc. (Kelly or the Company) for a Class E Certificate of Public Convenience and Necessity to transport household goods as follows:

Household Goods, As Defined in R. 103-210(1): Between points and places in Spartanburg County and from points and places in Spartanburg County to points and places in South Carolina and from points and places in South Carolina returning to points and places in Spartanburg County.

The Commission's Executive Director instructed Kelly to publish a Notice of Filing in newspapers of general circulation in the service area desired. The Notice of Filing instructed the public as to how to file pleadings to participate in the proceedings on the Application. Petitions to Intervene were filed by Carey Moving and Storage of Charlotte, Inc., Carey Moving & Storage, Inc., and Carey Moving & Storage of Greenville, Inc. (collectively, the Intervenors).

A hearing was held on September 24, 2003 at 2:30 PM in the Commission's hearing room. The Honorable Randy Mitchell, Vice-Chairman, presided. Kelly Moving,

Inc. was represented by Herbert E. Buhl, III, Esquire. The Intervenors did not appear at the hearing. The Commission Staff was represented by F. David Butler, General Counsel. The Company presented the testimony of Roy Kelly, Anna Robinson, David Stoltzfus, Robert Hassold, Chris Edlund, Henry Turner, and David Crouch. The Commission Staff presented the testimony of L. George Parker, Jr., Manager of the Transportation Department.

David Crouch, of DTC Transportation, testified on behalf of Kelly. Crouch stated that he had a truck rental and shipping business, and that he had possessed a Certificate of Public Convenience and Necessity from this Commission for some three years which includes the Spartanburg area. Crouch described Spartanburg as a “growth area,” and stated that, in his opinion, another mover was needed, especially on a seasonal basis. Further, Crouch testified that, as a small business, he cannot always service all moving customers that call on him, and that he would be willing to refer some business to Kelly, as well as to rent trucks, if needed, to Kelly.

Chris Edlund testified that he owned an antique shop in Landrum, South Carolina, and that growth in the general area had exceeded anyone’s expectations. Edlund noted that he shipped antiques out of the Landrum area, and that Asheville and Spartanburg have the closest moving companies. Edlund stated that a mover was needed in the Landrum area, like Kelly. Edlund also noted that he had known Kelly since 1994, and that Kelly is an honest man.

Robert Hassold testified as to Kelly’s excellent integrity, and that Kelly had moved his office from one area of downtown Greenville to another.

David Stoltzfus testified that he owns a restaurant in Campobello, and that if he was to need a mover of household goods, he would use Kelly.

Henry Turner, another antique shop owner in Landrum, testified that he has occasion to ship antiques to other cities in South Carolina some three to four times a month, and that the customer is responsible for paying for the shipping. He states that he has need for a mover to move these antiques, and that he would use the Company.

Roy Kelly, President of the Company, testified. Kelly discussed his equipment, insurance, and the fact that has been moving goods from antique dealers and estate sales for some twelve years. Kelly noted that, once he found that authority was needed from this Commission, he ceased all regulated activity. Kelly stated that his plan was to add employees as needed. Kelly's business plan calls for some 33% antique moves and the rest household goods moves. Kelly testified that he sometimes had calls for household goods moves. He felt that he should be able to move household goods and/or antiques out of the Spartanburg County area to other points and places in the State, and from those other points and places back to Spartanburg. Kelly described his need for this type of authority in order to maintain his business.

Anna Robinson, Secretary-Treasurer of the Company, also testified. Ms. Robinson stated that she is the business manager for Kelly, and that she took a course on starting a new business. Robinson also noted that she has taken many calls from people asking for moving services of household goods, and that she has had to turn many calls down.

L. George Parker, Jr. testified for the Commission Staff. Parker discussed the Company's equipment, presented pictures of it, and discussed various issues that have been resolved or are in the process of being resolved.

S.C. Code Ann. Section 58-23-590(C)(Supp. 2002) states that the Commission shall issue a common carrier certificate of public convenience and necessity if the applicant proves to the Commission that: (1) it is fit, willing, and able to properly perform the proposed service and comply with the provisions of this chapter and the Commission's regulations and (2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity.

Upon consideration of this matter, we find that the Company, Kelly Moving, Inc. has demonstrated that it is fit, willing, and able to perform the services sought by the Application. The testimony of Mr. Kelly and Ms. Robinson, as well as that of Staff witness Parker, attest to the fit, willing, and able criteria. The testimony of Messrs, Crouch, Edlund, Hassold, Stoltzfus, and Turner indicate that the proposed service is required by the present public convenience and necessity. Mr. Kelly and Ms. Robinson also testified and provided evidence on the public convenience and necessity.

Based upon the record before the Commission and the statutory requirements along with the guidelines contained in the Commission's regulations, we find sufficient evidence to grant the amended application and therefore grant authority to Kelly Moving, Inc. in the form of a Class E Certificate of Public Convenience and Necessity for the movement of household goods as follows:

Between points and places in Spartanburg County and from points and places in Spartanburg County to points and places in South Carolina and from points and places in South Carolina returning to points and places in Spartanburg County.

This grant of authority is contingent upon compliance with all Commission regulations as outlined below.

IT IS THEREFORE ORDERED:

1. That the Application of Kelly Moving, Inc. for a Class E Certificate of Public Convenience and Necessity be, and hereby is, approved for authority to transport household goods as follows:

Between points and places in Spartanburg County and from points and places in Spartanburg County to points and places in South Carolina and from points and places in South Carolina returning to points and places in Spartanburg County.

2. Kelley Moving, Inc. shall file the proper license fees and other information required by S.C. Code Ann. Section 58-23-10 et seq. (1976), as amended, and by R.103-100 through R.103-241 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 26 (1976), as amended, and R.38-400 through 38-503 of the Department of Public Safety's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 23A (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

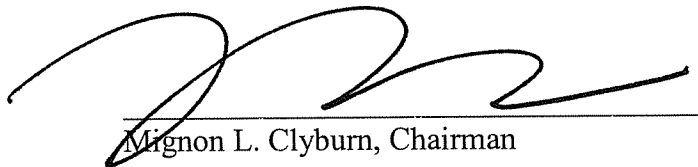
3. Upon compliance with S.C. Code Ann. Section 58-23-10, et seq. (1976), as amended, and the applicable Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, a Certificate shall be issued to Kelly Moving, Inc. authorizing the motor carrier services granted herein.

4. Prior to compliance with the above-referenced requirements and receipt of a Certificate, the motor carrier services authorized herein shall not be provided.

5. Failure of the Applicant either (1) to complete the certification process by complying with the Commission requirements of causing to be filed with the Commission within sixty (60) days of the date of this Order proof of appropriate insurance (both liability insurance and cargo insurance), a tariff or schedule of rates and charges, and an acceptable safety rating or (2) to request and obtain from the Commission additional time to comply with the requirements of the Commission as stated above, shall result in the authorization approved in the Order being revoked.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Bruce F. Duke, Deputy Executive Director

(SEAL)